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JUN 14 2006

OFFICE OF PETITIONS

Babak Arfaa
2310 Cullum Rd.
Bel Air, MD 21015

In re Application of	:	
Arfaa	:	Decision on Petitions
Application No. 09/846,206	:	
Filing Date: May 2, 2001	:	

This is a decision on the petition under 37 CFR 1.137(a) and the petition under 37 CFR 1.137(b) filed April 18, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **dismissed**.

Facts:

The application was filed on May 2, 2001.

The claims for the application did not start on a separate sheet and an abstract was not filed.

The Office accorded the application a filing date of May 2, 2001.

The Office mailed a "Notice to File Corrected Application Papers" on June 27, 2001. The Notice required the application be corrected to have the claims start on a separate sheet and required the submission of an abstract. The Notice set a shortened statutory period for reply of two (2) months.

The Office did not receive a reply to the Notice. As a result, the application became abandoned on midnight of August 27, 2001.

A Notice of Abandonment was mailed on February 6, 2004.

Discussion:

The petition under 37 CFR 1.137(a):

The basis for petitioner stating the delay was unavoidable is unclear. This portion of the decision will assume petitioner is asserting he never received the Notice to File Corrected Papers mailed May 2, 2001, and the Notice of Abandonment mailed August 27, 2001.

Per MPEP 711.03(c)(I)(A),

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has not supplied the information above to demonstrate non-receipt of either of the two Notices.

The petition under 37 CFR 1.137(b):

The petition under 37 CFR 1.137(b) could be granted but for the fact the Office is unclear as to the nature of the reply being filed with the petition. Although the petition indicates petitioner is filing corrected papers, the papers themselves indicate they are part of a continuation application.

Petitioner had two options in filing a reply to accompany the petition.

The first option was filing an amendment to the application to have the claims start on a new sheet and to add an abstract to the application. The monetary cost of this option is \$0.

The second option is to file a continuation application (brand new application) and request the application be revived for purposes of copendency. The monetary cost of the second option is \$500 since petitioner will eventually need to pay a filing fee, search fee, and examination fee.

A request for reconsideration should be filed and petitioner should either:

- (1) Choose the first option above and supply an amendment with a cover sheet clearly labeled "Preliminary Amendment", or
- (2) Choose the second option and clearly state petitioner wishes for the papers filed with the instant petition to be treated as a new, continuation application.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted.

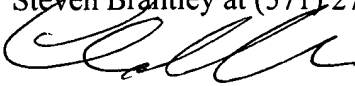
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
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401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



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